

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT JAMES SWINT,

V. Tamm,

SAMUEL B. ROBERTS, et al.

## Defendants.

CASE NO. C21-5283 BHS

## ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R")

of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 4, and Plaintiff Robert Swint's objections to the R&R, Dkt. 5.

On April 14, 2021, Plaintiff filed the Proposed Complaint naming Samuel B. Roberts, Bush Boake Allen, International Paper, the United States of America, and the Washington Department of Corrections as Defendants. Dkt. 1. On May 7, 2021, Plaintiff filed an Application to Proceed *in forma pauperis*. Dkt. 3. Judge Christel concluded that Plaintiff's Proposed Complaint fails to state a claim upon which relief can be granted and is frivolous. Dkt. 4 at 3. Judge Christel further determined that the Proposed Complaint

1 fails to contain factual allegations that could plausibly give rise to a claim and thus  
2 recommends that the Court dismiss Plaintiff's case without leave to amend. *Id.*

3 Plaintiff objects to the R&R, asserting that he never consented to a magistrate  
4 judge. The district judge must determine de novo any part of the magistrate judge's  
5 disposition that has been properly objected to. The district judge may accept, reject, or  
6 modify the recommended disposition; receive further evidence; or return the matter to the  
7 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

8 Both statutory authority and the local rules allow for a district judge to refer non-  
9 dispositive pre-trial matters to a full-time magistrate judge in a case pending before the  
10 district judge. *See* 28 U.S.C. § 636; MJR 1(h), 3(a). The Court properly referred this case  
11 to Judge Christel for resolution of the pre-trial matters. Further, Plaintiff's objections do  
12 not address the substantive concerns with his Proposed Complaint raised in the R&R.  
13 Judge Christel correctly concluded that Plaintiff's Proposed Complaint is frivolous, fails  
14 to state a claim upon which relief can be granted, and does not contain factual allegations  
15 that could plausibly give rise to a claim.

16 The Court having considered the R&R, Plaintiff's objections, and the remaining  
17 record, does hereby find and order as follows:

18 (1) The R&R is **ADOPTED**;

19 (2) Plaintiff's application to proceed in forma pauperis, Dkt. 3, is **DENIED**,  
20 and the case is **DISMISSED without prejudice** for failure to state a claim;  
21 and

(3) The Clerk shall enter a JUDGMENT and close the case.

Dated this 8th day of July, 2021.

  
BENJAMIN H. SETTLE  
United States District Judge